THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 29-08-2005

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WRIT PETITION No.18995 OF 2005

BETWEEN:

K. Rama Prasad . . .Petitioner

And

The Executive Engineer, Proddatur and others . . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.18995 OF 2005

ORDER:

The grand father of the petitioner viz., Katta Lakshmaiah, was said to be an Ex-Serviceman. He was in occupation of four cents of land in Sivalayam Street, Proddatur Town. He constructed houses therein and they were assigned door Nos.7-3388 and 7-3389. When steps were being taken to evict him from that site, he approached the authorities concerned and ultimately, he was granted patta after collecting the market value.

The father of the petitioner filed O.S.No.433 of 1997 in the Court of Principal Junior Civil Judge, Proddatur, for the relief of perpetual injunction against the Proddatur Municipality, the third respondent herein, and the Government of Andhra Pradesh, represented by the District Collector, apprehending that they would dispossess him. After the contest made by the parties, the suit was decreed on 25-07-2000 and an observation was made to the effect that in case, the defendants therein require the plot or part of it for the purpose of widening the road, they have to acquire it in accordance with law.

The petitioner was issued a notice dated 17-08-2005 by the Executive Engineer, Roads and Buildings Department, Proddatur, the first respondent

herein, stating that, with a view to relieve the traffic congestion, the Mypadu-Nellore-Ballari-Bombay road passing through Proddatur town is proposed to be widened, and that the petitioner shall remove the encroachment within 15 days of date of receipt thereof. The petitioner challenges the same.

Heard the learned counsel for the petitioner, the learned Government Pleader for Roads and Buildings and Sri S.I.Newton, the learned Standing Counsel appearing for the third respondent.

The petitioner claims that his ancestors were granted patta in respect of the site referred to above, and thereby, they acquired ownership rights. When his father apprehended a threat of dispossession, O.S.No.433 of 1997 was filed for the relief of injunction in the Court of Principal Junior Civil Judge, Proddatur. The trial Court framed necessary issues and ultimately, recorded findings, recognizing the ownership of the father of the petitioner over the site. A further observation was made to the effect that even if the site is required for widening of the road, the defendants therein can take possession thereof only after acquiring it in accordance with law. The judgment and decree dated 25-07-2000 became final.

It is true that the Executive Engineer, who has issued the impugned notice, is not a party to that suit. However, the legal consequences flowing from the judgment and decree as well as the patta, certainly bind respondents 1 and 2 also. The third respondent was very much a party to that suit. It is not open to the respondents at this stage, to treat the structure belonging to the petitioner as an encroachment or to remove the same without paying compensation.

Hence, the writ petition is disposed of directing that the respondents shall not demolish the premises of the petitioner bearing Nos.7-3388 and 7-3389, Sivalayam Street, Proddatur Town and Mandal, Kadapa District, without acquiring it in accordance with law.

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(L.NARASIMHA REDDY, J)

29th AUGUST, 2005.

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